

# EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANDREA ROSSBACH,

Plaintiff,

-against-

MONTEFIORE MEDICAL CENTER, NORMAN  
MORALES, and PATRICIA VEINTEMILLA  
Defendants.  
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Index No: 1:19-cv-05758

**DECLARATION OF ANDREA  
ROSSBACH IN OPPOSITION TO  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

ANDREA ROSSBACH, pursuant to 28 U.S.C. § 1746, declares under the penalty of perjury, as follows:

1. I am the Plaintiff in this action. I am female, over the age of eighteen (18) years old, and reside in the state of New York.
2. The purpose of this declaration is to clarify certain claims raised by the Defendants that were not sufficiently addressed during my deposition or in my Complaint in support of my opposition to the Defendants' motion for summary judgement.
3. Around June 2014, Defendant MONTEFIORE MEDICAL CENTER ("Montefiore") hired me as a Registered Nurse in their Pediatric Emergency Department.
4. Immediately upon hire and throughout my employment, Defendant NORMAN MORALES ("Morales") began making constant discriminatory and sexist remarks towards me.
5. By way of example only, Morales asked me if I was "HAVING A WET DREAM ABOUT [HIM]." Morales also told me that my "LIPS LOOK SO JUICY" and that my "ASS LOOKS SO HOT." Morales would also ask me if I had ever been with a real man while cupping his crotch. Additionally, Morales often referred to me as his "LITTLE VIRGIN."

6. Throughout my employment, I protested Morales' crude sexual comments and declined his unwanted sexual advances.

7. Beginning around March 2017 and throughout the duration of my employment, Morales would call me into his office under the guise that there was a patient issue to discuss. However, once he duped me into his office, he would often grope me and try to pull me closer to him.

8. Morales also admitted to me that he often called me into his office, because he wanted to watch my buttocks as I walked in and out of his office.

9. In response to Morales' grotesque comments and crude behavior, I continued to complain about Morales' unwanted sexual advances begging him to "STOP" and "BEHAVE."

10. I further appealed to Morales explaining that he should not be touching me because he was a married man. In response, Morales told me, "YOU'RE SO HOT, WHAT SHE DOESN'T KNOW WON'T HURT HER."

11. Around March 2017, I transferred to the day-time shift and began working directly with Morales. Subsequently, Morales told me, "HI, SEXY, I'M GLAD YOU'VE MADE IT TO THE DAY-TIME SHIFT. YOU KNOW I LOVE WHITE GIRLS, BUT YOU SURE DO HAVE A LATINA ASS, AND I GET TO SEE IT ALL THE TIME."

12. Around April 2017, Morales called me into his office and told me, "I REALLY WANT TO KISS YOU." In response, I continued to spurn Morales' unwanted sexual advances.

13. However, Morales kept making crude sexist remarks including, "I LOVE THAT YOU WEAR WHITE BECAUSE I CAN SEE YOUR ASS" and "ARE YOU SURE YOU'RE NOT SPANISH BECAUSE YOU HAVE LATINA ASS."

14. Around April 2017, Morales began massaging my shoulders and then whispered into my ear, “WHAT YOU NEED IS TO BE FUCKED BY A REAL MAN.” Horrified at his disgusting behavior, I did not respond to his unrelenting sexual harassment, and just got up and left.

15. Around June 2017, Morales’ sexually charged comments again escalated to physical contact. Specifically, Morales began physically grabbing me and tried to place me on his lap.

16. Morales would also bite his lips in a sexually suggestive manner while staring at my buttocks. In response, I asked Morales to stop objectifying me and making me feel “LIKE A PIECE OF MEAT.” To which he responded, “A TASTY ONE AT THAT.”

17. Around September 2017, I complained to Defendant PATRICIA VEINTIMILLA (“Veintimilla”) and asked if Morales was “ALWAYS LIKE THIS OR JUST TO [HER].” In response, she simply gave me a weird look and walked away.

18. Around September 2017, Morales passed me in the hallway and forcibly grabbed my buttocks.

19. Around November 2017, Morales called me into his office. Once inside, he began to grope me all over my body. Specifically, Morales forcibly sat me down on his lap and started rubbing my chest and buttocks.

20. In response, I begged him to stop groping me stating that I “DID NOT WANT TO HAVE TO REPORT [HIM].” However, Morales told me, “IF YOU EVEN THINK ABOUT THROWING ME UNDER THE BUS, I WILL FINISH YOU! I HAVE THE UNION AND HR IN MY BACK POCKET.”

21. Around November 2017, Veintemilla told me that she was having an affair with Morales. Veintemilla also informed me that she was jealous of me because Morales often flirted with me in front of her.

22. Around November 13, 2017, Morales surreptitiously placed a pair of women's underwear in my scrub pocket and told me, "YOU'RE SO FUCKING HOT, I CAN'T WAIT TO SEE THESE THROUGH THE WHITE PANTS YOU WEAR."

23. Afterwards, up until Plaintiff's termination, Morales often indicated that he wanted me to model the underwear for him because he wanted to obtain sexually explicit photographs of me wearing the underwear in order for him to masturbate to later.

24. Around November 28, 2017, while attending a funeral for another co-worker, Veintemilla offered me a brownie. At the time, Veintemilla insisted that I "REALLY TRY THIS BROWNIE." I declined to eat the brownie at the funeral, but agreed to take it home for later.

25. Around November 29, 2017, after working a twelve-hour shift without issue, I decided to eat the brownie. Almost immediately afterwards, I started to feel extremely sick.

26. Around November 30, 2017, I asked Veintemilla what was in that brownie. Veintemilla responded that she gave me a marijuana brownie stating, "'I HOPE IT TOOK THE EDGE OFF GIRL, IT WAS A WEED BROWNIE!'"

27. Thereafter, I complained to Ms. Sering, that Morales was sexually harassing me, including asking me if I had any wet dreams about him. I also complained to Ms. Sering that Veintimilla had deliberately given me a weed brownie.

28. In response, Ms. Sering told me that if I were to put my complaint to her in writing, I would lose my job. Ms. Sering also told me that the ER was crazy and that things like that happen. Finally, she told me that Morales was a flirt and that I should not stress out about the sexual harassment.

29. Around December 7, 2017, after working my entire shift without issue, Veintemilla told me to report for a fitness and drug test. After inquiring why I needed a drug test, Veintemilla responded, "YOU DON'T HAVE ANY MAKEUP ON TODAY, YOU LOOK OFF." I did not

have any other conversations with Veintemilla that day. Thereafter, Charles Fithian escorted me to Occupational Health Services (“OHS”) and left as soon as we arrived.

30. That day, I did not look drowsy, slur my words, appear anxious, have any problems with eye contact or inserting an IV into a patient. I also did not fail to address any of the doctors’ orders for my patients. To be clear, at no point was I under the influence of drugs while on duty.

31. At the fitness for duty evaluation, I mentioned to Dr. Hacker that I had a prescription for Adderall and Xanax. Further, I never told Dr. Hacker that I was under the care of a psychiatrist.

32. Later that night, Defendant’s Head Nurse Manager Laura Holihan (hereinafter referred to as “HOLIHAN”) called me and told me not to return to work. Although I tried calling back to inquire why I could not return, HOLIHAN never responded.

33. On December 8, 2017, I reported back to OHS with my prescriptions for Adderall and Xanax and my mother’s prescription for Tramadol, without prompting from Dr. Hacker. To be clear, Dr. Hacker and I did not speak before I arrived to OHS that day.

34. Around December 18, 2017, I returned to work to pick up my drug test results which indicated that I had tested positive for marijuana. Further, I never told Dr. Hacker that the marijuana was due to secondary smoke inhalation from my boyfriend smoking and Dr. Hacker never told me that using someone else’s prescription medication was not an acceptable explanation for a positive test result.

35. That same day, I agreed to take a second confirmatory drug test pursuant to Montefiore policy. Afterwards, I tested negative for marijuana on the second drug test which most certainly negates the reliability of Defendants' claim that I was actively under the influence only ten (10) days earlier.

36. Around December 19, 2017, I met with an Employer Assistance Program ("EAP") counselor to assess my "for overall functioning and potential indications of drug use." Thereafter, the EAP counselor observed that that "there were no observable signs of alcohol/drug intoxication." See Hacker Declaration, Ex. E.

37. Around January 5, 2018, despite the fact that both Dr. Hacker's observations and the EAP counselor's observations indicated that I did not appear under the influence and the fact that I subsequently tested negative for marijuana, and the fact that Montefiore's policy states that reporting to work under the influence of illegal drugs will result in progressive discipline, Morales immediately terminated me even though this was my first alleged infraction.

38. Around May 2018, I filed an Equal Employment Opportunity Commission ("EEOC") Charge of Discrimination which was then transferred to the New York State Division of Human Rights ("NYSDHR").

39. Ultimately, Defendants unlawfully discriminated, harassed, retaliated, and wrongfully terminated me on the basis of my sex and gender.

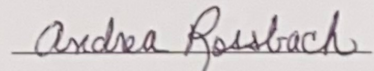
40. As a result of Defendants' discriminatory actions, I have felt extremely humiliated, degraded, victimized, embarrassed and have suffered from extreme emotional distress, severe depression, excessive anxiety, and physical ailments.

41. As a result of Defendants' discriminatory actions and wrongful termination of my employment, I have also endured irreparable damage to my professional reputation and have suffered and will continue to suffer the loss of income, the loss of a salary, bonuses, benefits and other compensation, which such employment entails.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: December 11, 2020

New York, New York



Andrea

Rossbach